

Sl. No.38
15.07.2025
Suman
Ct.06

C.O. 2203 of 2025

Bapi Chakraborty
Versus
The Municipal Commissioner, Kolkata Municipal
Corporation and Ors.

Mr. Biswaroop Bhattacharya
Mr. Chandrachur Chatterjee
Ms. Rubab Fatma
..for the petitioner

Mr. Debjit Mukherjee
Ms. Priyanka Jana
..for O.P./KMC

Mr. Shourjyo Mukherjee
Mr. Vishwarup Acharyya
..for O.P. Nos. 5, 6 and 7.

This application under Article 227 of the Constitution of India is at the instance of an owner of a commercial space of a multi-storied building and is directed against an order dated 25th April, 2025 passed by the Municipal Building Tribunal, Kolkata Municipal Corporation in B.T. Appeal No.113 of 2024.

By the order impugned, the learned Tribunal fixed 26th June, 2025 for filing receipt showing payment of cost and for hearing of the application under Section 5 of the Limitation Act and thereafter hearing of the stay application.

Mr. Bhattacharya, learned advocate appearing for the petitioner submits that challenging an order of demolition passed by the Special Officer (Building) on 5th December, 2022 in Demolition Case No. D-59-D/Br.-X/21-22, the petitioner preferred an appeal being B. T. Appeal No.113 of 2024 before the Municipal Building Tribunal. Since the said appeal was filed beyond the statutory period of limitation, the same was accompanied by an application under Section 5 of the Limitation Act. The petitioner has also filed an application praying for stay of the operation of the order of demolition passed by the Special Officer (Building).

Mr. Bhattacharya submits that a document dated 14th March, 2022 was placed before the Special Officer (Building). He submits that the said document is a representation, purported to have been signed by the petitioner herein, but according to Mr. Bhattacharya, the same is a manufactured document. He submits that the petitioner took out an application for initiating an enquiry into the matter against the Municipal Authority and the private respondent, which was rejected by the order impugned by imposing cost.

Mr. Debjit Mukherjee, learned advocate represents the Kolkata Municipal Corporation. He submits that the petitioner submitted a representation dated 6th March, 2024 praying for regularization of the illegal construction. He further submits that alleging inaction

on the part of the Municipal Authority, the petitioner filed the writ petition before the Hon'ble Court being WPA 8573 of 2025 and an order was passed in the said writ petition directing the Municipal Authority to file a report. He submits that suppressing the fact of pendency of the writ petition, the petitioner filed the instant civil revision alleging that the petitioner did not pray for regularization of the illegal construction. He submits that the Municipal Tribunal was right in holding that it cannot go into the issue of fraud or misrepresentation alleged to have been practised before the Special Officer (Building).

Mr. Mukherjee, learned advocate appearing for the private respondent/opposite party nos.5 to 7 submits that the petitioner has admitted in the civil revisional application that he received a notice dated 28th April, 2022 for the purpose of hearing which was fixed on 23rd May, 2022. Therefore, he submits that the petitioner made incorrect statement by saying that the petitioner was not present at the time of hearing before the Special Officer (Building).

Heard the learned advocates appearing for the parties and perused the materials placed. It appears from the impugned order that 26th June, 2025 was fixed for hearing of the application under Section 5 of the Limitation Act and thereafter hearing of the stay application. It has been submitted by the learned

advocate appearing for the petitioner that hearing of the application under Section 5 of the Limitation Act has been fixed on 21st August, 2025. Therefore, the writ petitioner cannot be said to be aggrieved by the portion of the impugned order fixing the date of hearing of the application under Section 5 of the Limitation Act.

Now, the question remains as to whether the learned Tribunal was right in not allowing the prayer of the petitioner seeking investigation against the Municipal Authority and the private respondent. The learned Tribunal recorded that it appears from the case record of the demolition case that the petitioner herein contested the demolition proceeding and he has never challenged the genuineness of the document dated 14th March, 2022 before the Special Officer (Building). Since the document dated 14th March, 2022 was lying in the records of the demolition case, the learned Tribunal was right in holding that the question whether fraud or misrepresentation was practised with regard to the representation dated 14th March, 2022 should have been raised before the Special Officer (Building) before whom the said document was submitted.

This Court finds that the learned Tribunal also gave liberty to the petitioner to take legal recourse as per law with regard to the question of forgery or fabrication of the document concerned. This Court finds that the learned Tribunal assigned cogent reasons for rejecting

the prayer seeking initiation of contempt proceedings and investigation against the Municipal Authority and the private respondent.

This Court is not inclined to interfere with such portion of the order. It is not in dispute that the petitioner did not disclose the fact of pendency of the writ petition in the civil revisional application. It is only when the learned advocate appearing for the Municipal Authority pointed out that the petitioner filed a writ petition praying for a direction upon the Municipal Authority to consider their prayer for regularization, the petitioner has filed a supplementary affidavit disclosing the fact of pendency of the writ petition.

Mr. Bhattacharya, learned advocate for the petitioner submits that steps have been taken for withdrawal of the writ petition.

Be that as it may, the fact remains that the pendency of the writ petition was suppressed at the time of filing of the civil revisional application. For all the aforesaid reasons, this Court is not inclined to interfere with the imposition of cost by the learned Tribunal.

With the above observations, **C.O. 2203 of 2025** stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Hiranmay Bhattacharyya, J.)